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WPS Energy Services, Inc.

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Docket No. 00-0199

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Petition for Certification as an  
Alternative Retail Electric Supplier

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**PETITION OF PEOPLES ENERGY SERVICES CORPORATION  
FOR LEAVE TO INTERVENE IN OPPOSITION TO PETITION**

**To the Hearing Examiner:**

Pursuant to 83 Illinois Administrative Code Section 200.200, Peoples Energy Services Corporation ("PE Services"), by one of its attorneys, Gerard T. Fox, hereby petitions this Commission for leave to intervene in the above-entitled cause. PE Services requests that the Commission deny the petition of WPS Energy Services, Inc. ("WPS") for certification as an Alternative Retail Electric Supplier ("ARES") due to its failure to meet the reciprocity requirements of the Public Utilities Act (the "Act") set forth in Section 16-115 (d). In support of this petition, PE Services states as follows:

1. PE Services is a corporation organized and existing under the laws of the State of Illinois and is principally in the business of providing energy services to retail customers. This currently includes sales of electricity and of natural gas and natural gas management services to Illinois commercial and industrial end users. The Commission certified PE Services as an ARES, as that term is defined in Section 16-102 of the Public Utilities Act, in Docket 99-0432 on September 14, 1999.

2. The purpose of this proceeding is to consider whether WPS Energy, Inc. should be certified as an ARES pursuant to Section 16-115 of the Act. PE Services

believes that WPS should not be certified as an ARES because it fails to meet the reciprocity requirements set forth in Section 16-115 (d)(5).

3. Section 16-115 (d) (5) of the Act applies to applicants which have electric utility affiliates. Generally, under that section, the Commission can not grant an application for ARES certification to an entity that has an electric utility affiliate operating in a jurisdiction which is not on the same level of open access as Illinois. WPS admits it has electric utility affiliates operating in Wisconsin and Michigan. (Attachment C to Application.) Moreover, WPS admits that Wisconsin and Michigan are not open to electric retail competition. (Attachment C to Application.)

4. Section 16-115 (d) makes available an exception to the general rule that the Commission can not grant ARES certification to an affiliate of electric utilities operating in states that do not allow retail competition. The exception allows the Commission to grant certification where the applicant demonstrates that the Illinois electric utilities in whose service territories it seeks to compete cannot physically and economically deliver electric power and energy into the service territories of the applicant's electric utility affiliates. In its original application, WPS sought certification to serve retail customers (one megawatt or greater) throughout the state of Illinois, alleging that Illinois electric utilities could not physically and economically deliver electric power and energy to the service territories of WPS' electric utility affiliates.

5. WPS' self-serving allegation was questioned by the Hearing Examiner in this proceeding in a Notice of Hearing Examiner's Ruling, dated March 13, 2000. Among other things, the Notice of Hearing Examiner's Ruling requested information relating to the ability of Illinois electric utilities to physically and economically deliver electric power and energy to WPS' electric utility affiliates.

6. In its Response to Notice of Hearing Examiner's Ruling, WPS retrenched from its original position. WPS withdrew its application for ARES certification in the

service territories of Interstate Power, South Beloit, MidAmerican Energy, Ameren UE, and Mount Carmel, acknowledging that it could not demonstrate it could meet the reciprocity requirements with respect to those Illinois electric utilities. WPS continues to assert that it meets the reciprocity requirements with respect to the remaining Illinois electric utilities. However, WPS' own Response to the Hearing Examiner's Ruling demonstrates that it does not meet the reciprocity requirements of the Act.

7. With respect to the physical ability to deliver electric power and energy, WPS admits that one of its electric utility affiliates, Wisconsin Public Service Corporation, has arranged for firm transmission service from Commonwealth Edison Company's ("ComEd") control area to its own control area for the last three years and, in fact, has purchased substantial amounts of energy from ComEd (Response, p. 3; Response, Ex. 4).

8. With respect to the economic ability to deliver electric power and energy, WPS' Response to the Hearing Examiner's Ruling offers more of the self-serving analysis set forth in its Application. For example, WPS states, on page 5 of its Response: "If the price is the market price of capacity, it does not make sound economic sense for ComEd to sell below market price just to compete in Wisconsin." The time constraints of ARES certification proceedings and the limits placed on potential intervenors, *i.e.* the requirement that the Commission base its decision on information provided by the Applicant, do not make it possible to contest directly the showings of an ARES application. However, it strains credibility to argue that an Illinois electric utility cannot economically deliver electric energy and power to the service territories of WPS' electric utility affiliates at any time, whether peak or non-peak, summer or non-summer. In fact, ComEd has very low off-peak prices and WPS' own response to the Hearing Examiner's Ruling demonstrates that WPS' electric utility affiliate has made substantial wholesale purchases from ComEd (Response, Ex. 4).

Moreover, it is obvious it should not be up to WPS to make economic decisions for Illinois electric utilities. PE Services contends that WPS has not met the Act's requirement that it demonstrate that Illinois utilities cannot economically deliver electric power and energy to the service territory of its Wisconsin electric utility affiliate.

9. For policy reasons, the Commission should require a compelling showing that applicants for ARES certification meet the reciprocity requirements of the Act. For competition to thrive, there must be an ability to compete throughout the region, not just in one state. There will be no impetus for neighboring states such as Wisconsin, Michigan and Indiana to open their states to competition if Wisconsin, Michigan and Indiana companies can compete in Illinois, but Illinois companies cannot compete in their states. The reciprocity provisions of the Act were put there for a reason by the General Assembly. Granting WPS' application, based on the inadequate showings made by WPS, would make those reciprocity provisions meaningless. Moreover, because of the limitations placed on a potential intervenor's ability to contest an ARES certification—the requirement that the Commission base its decision on information provided by the Applicant—it is crucial that that information be compelling, not simply self-serving.

10. PE Services has an interest in this proceeding, and its interest is not adequately represented by any party to this proceeding.

**WHEREFORE**, PE Services prays that the Commission grant it leave to intervene and that it deny certification to WPS.

Dated at Chicago, Illinois this 3rd day of April, 2000.

Respectfully submitted,

**PEOPLES ENERGY SERVICES CORPORATION**

By Bobbi Welch  
**Bobbi Welch**  
**Director of Retail Power Marketing**  
**Peoples Energy Services Corporation**

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COUNTY OF COOK    )

**VERIFICATION**

I, Bobbi Welch, being first duly sworn, depose and say that I am the Director of Retail Power Marketing for Peoples Energy Services Corporation, that I have read the foregoing Petition of Peoples Energy Services Corporation for Leave to Intervene by me subscribed, and I know the contents thereof, and that the statements therein contained are true to the best of my knowledge, information and belief.

By Bobbi Welch  
                                  **Bobbi Welch**  
                                  **Peoples Energy Services Corporation**

**SUBSCRIBED** and **SWORN** to before me  
this 3rd day of April 2000

Ann T. Browne  
Notary Public

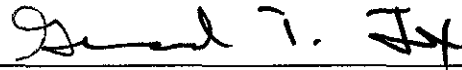


**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served the Petition of Peoples Energy Services Corporation for Leave to Intervene by placing a copy thereof in the United States mail with first class postage affixed, addressed to each of the parties of record in Ill.C.C. Docket No. 00-0199.

Dated at Chicago, Illinois this 3rd day of April 2000.

By



**Gerard T. Fox**  
An Attorney for  
Peoples Energy Services Corporation